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HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

Single Bench: - Hon'ble Shri S.R. NAYAK, CJ

WRIT PETITION NO. 5557 OF 2005

PETITIONER

D.R. Dhurandar,
S/o Shri Dayalu Ram Dhurandar, Aged about 55 years, All India R.M.S. & M.M.S. Employees Union, M.G. & Group 'D', Raipur, R/o. Near Hanuman Mandir, Urkura Post Office – Birgaon, District Raipur (C.G.).

Versus

RESPONDENTS

1. Chief Post Master General, Chhattisgarh Circle, Department of Post, Raipur (C.G.).

2. Bhagwandas Das,
S/o Not Known, Aged about 58 years, General Secretary, MSI/22, Atul Grow Road, Eastern Code P.N.T. Quarter, New Delhi – 1.

3. S.K. Pawar,
Circle Secretary, R.M.S. Rail Dak Office, Jabalpur (M.P.).

Present:

Mr. Anand Kumar Tiwari, learned counsel for the petitioner.

O R D E R
(Passed on 28th November 2005)

This basic facts which are germane to the decision – making in this writ petition to be noted first and they are as follows :

On account of the Reorganization of territories which fall under the circles which are now existing in the State of Madhya Pradesh and in the State of Chhattisgarh, the Trade Union namely All India R.M.S. & M.M.S. Employees Union, M.G. & Group 'D' Employees which was headed by the

petitioner namely Shri D.R. Dhurandar became defunct for want of office bearers. In the circumstance, the second respondent namely Bhagwandas who is the General Secretary of All India R.M.S. Employees Union by passing an order dated 18-7-2005 has constituted a three member ad-hoc committee for conducting and managing the affairs of the Union. This writ petition is filed under Article 226 of the Constitution of India complaining that the committee so constituted by the second respondent is proceeded to hold the fresh election to elect the office bearers of the Union without authority of the law and in violation of Article 15-C of bye-laws of the Union. So complaining, the intervention of the Court is sought.

2. I have heard Mr. Anand Kumar Tiwari, learned counsel for the petitioner. A careful perusal of the petition would show that the petitioner is not seeking any relief against the first respondent who is Chief Post Master General, Chhattisgarh Circle. The relief is sought only against the second respondent who is General Secretary of the subject Union. The dispute brought before the Court, therefore, falls within the domain of inter se dispute between the office bearers of the same Union. All India RMS & MMS Employees Union is not a 'State' within the meaning of Article 12 of the Constitution of India. Further more, the petitioner is not seeking writ to enforce any public law obligation cast on the second respondent or three member ad-hoc committee constituted by him. In that view of the matter, the writ petition is totally misconceived and not maintainable. The dispute brought before the Court is essentially civil in nature and that dispute can be threshed out by instituting a suit before the jurisdictional Civil Court. However, it was contended by Mr. A.K. Tiwari that the first respondent has approved the proposal to hold election

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initiated by the second respondent vide order dated 18/07/2005 by his endorsement dated 22/08/2005 and therefore, the writ petition maintainable. The Court pointedly asked the learned counsel whether prior approval of the first respondent is necessary to conduct election to elect the office bearers of the trade union in terms of any statute or provisions of the Constitution, he was not in a position to trace such obligation with reference to any statute or Constitution. Without there being any legal obligation if the second respondent outside the law sought approval of the first respondent and the first respondent without appreciating the law requirement, accorded permission, that fact itself would not invest a locus in the petitioner to move this Court under Article 226 of the Constitution of India. In the result, the writ petition is dismissed as not maintainable. However, this order shall not come in the way of the petitioner, if he so advised, to work out the legal remedies before the jurisdictional Civil Court or any other forum. There is no order as to costs.

Sd/-
Chief Justice

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